

Filed
FEB - 4 2004
Board of Nursing

BEFORE THE KANSAS STATE BOARD OF NURSING

Landon State Office Building, 900 S.W. Jackson #1051
Topeka, Kansas 66612-1230

IN THE MATTER OF
JOHNNY BARKER
LICENSE NOS. 13-065437-092, 44900-092

CASE NO. 00-345-4, 00-064-4, 00-371-4

CONSENT AGREEMENT TO SUSPEND LICENSE WITH A STAY AND FINAL ORDER

NOW ON THIS 2 day of February, 2004, the Kansas State Board of Nursing, represented by Assistant Attorney General, Betty Wright, and the respondent, Johnny Barker, enter into the following agreement:

1. Respondent is licensed to practice nursing in Kansas as a Registered Nurse and ARNP until 9/30/2004.
2. Respondent's address of record is #5 East Lake Road, Anthony, KS 67003.
3. After an investigation, the Board's investigative committee found reasonable grounds to believe that respondent violated the nurse practice act and referred this matter for further proceedings.
4. Respondent has the right to a hearing with evidence and witnesses to establish evidence of his/her fitness to practice nursing and to seek review of the findings from that hearing in accordance with the Kansas Administrative Procedure Act and the Act for Judicial Review and Civil Enforcement of agency actions. Respondent and the Kansas State Board of Nursing are waiving those rights and voluntarily entering into this consent agreement instead of proceeding to such a hearing.

AGREED FINDINGS OF FACT

5. The respondent has had three cases with the board, KSBN **Case 00-064** on or about April 1998 the licensee had a positive employer UDS for marijuana. In KSBN **Case 00-345-4**, April 1999, respondent admitted to mishandling of Demerol, falsifying MAR records and using Demerol while on duty at Sumner Regional Medical Center. The current and third board case was noncompliance with KNAP **Case 00-371-4**, in this case

the respondent failed to return releases from two employers to KNAP.

6. The three cases above were resolved by a Disciplinary Agreement and Final Order dated March 20, 2001 in which the respondent agreed to participate in and complete the reasonable recommendations and requirements of the Kansas Nurses Assistance Program (KNAP) and provide 12 hours of CNE on professional ethics or responsibility.

7. On or about December 22, 2003 the Board office received a letter from KNAP that the licensee was in non-compliance. The licensee failed to attend or have an excused absence for three different monthly monitoring meetings this calendar year. The licensee also failed to report for random urine drug screens whenever selected.

8. The licensee has also failed to provide the Board of Nursing with the original certificates from the required 12 hours of CNE courses.

CONCLUSIONS OF LAW

9. Respondent has violated K.A.R. 60-3-110(r), failing to comply with any disciplinary order of the board;

Respondent has violated K.A.R. 60-3-110(s) failing to complete the requirements of the impaired provider program of the board;

Respondent has violated K.S.A. 65-1120(a)(4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol.

POLICY STATEMENT

10. The role of Kansas State Board of Nursing is to protect the citizens of Kansas.

DISPOSITION

11. By entering into this Consent Agreement and consenting to the entry of the Final Order, both parties waive their right to full administrative proceedings pursuant to K.S.A. 65-1120(b) and K.S.A.77-501 *et seq.* and to judicial review.

12. Based upon this agreement, and pursuant to the disciplinary remedies available in

K.S.A. 65-1120, the parties agree that the current license will be immediately **suspended** but such **suspension shall be stayed** and respondent will be allowed to practice under the following conditions:

a. Licensee shall participate in and complete the recommendations and requirements of the **Kansas Nurses Assistance Program (KNAP)**; sign releases of information necessary for KNAP to evaluate and monitor licensee and for KNAP to report information to the board.

b. Licensee shall send a **money order for \$70** to the Board upon entering into this agreement.

c. Licensee will complete **12 hours** of CNE pertaining to the **ethics** of nursing, these hours will not count toward continuing education hours. The original certificates will be mailed to the legal division within 60 days of signing this agreement.

d. Licensee will return his nursing license card with this agreement, and a new one will be issued with an S to indicate a Suspension with a Stay.

13. Licensee is responsible for the costs related to satisfying these conditions.

14. If licensee does not meet these requirements, petitioner will file a motion to lift the stay and may request additional sanctions against licensee's license or application for a license. Licensee would be sent notice of such action and would be entitled to a hearing as to whether he/she had complied with this agreement, but he/she could not contest the established violation(s).

15. Licensee agrees to notify the Legal Division of any changes in his address and phone number as well as all nursing employment terminations or employer changes or additions. All such notifications shall be made within fourteen (14) days of such a change.

16. Licensee shall immediately notify the Legal Division of any use of alcohol, or controlled substances, or any violation of this Consent Agreement and Final Order.

17. The Board will inactivate this case file when KNAP sends a letter stating he has successfully completed the KNAP program. This agreement does not prohibit the agency from taking disciplinary action against licensee's license for any additional or cumulative violation of the Nurse Practice Act committed by the licensee before or after this agreement is entered into.

18. The parties understand and acknowledge that this is a disciplinary action; it will be in the newsletter and on the website. The original of this agreement shall be placed in the Agency Record and is a public record.

19. By signing this Consent Agreement, respondent acknowledges that he has read and understands the entire document, and agrees to be bound by its terms. This Consent Agreement constitutes the entire agreement of the parties and may not be modified except in writing and approved by all parties.

IN CONCLUSION

20. This case will be inactivated and a card with no suspension will be issued when:

- a) KNAP issues a letter of successful completion of the KNAP program.
- b) cost of \$70 is paid.
- c) 12 hours of CNE regarding ethics have been completed within 60 days.

21. Once all of the above are met, the licensee may request that an unencumbered license be issued by sending the request in writing and returning the license card with the "S" to the Board; if all requirements are met a new card will be issued with no restrictions.

IN WITNESS WHEREOF, the parties hereto execute this Consent Agreement and request for a Final Order.

Johnny Barker
Licensee
5 East Lake Road
Anthony, KS 67003.